

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOSEPH FLANIGAN,

Plaintiff,

v.

CASE NO.
HONORABLE:

COUNTY OF OAKLAND and
S. PANIN,
in his individual and official capacities,

Defendants.

CHRISTOPHER TRAINOR & ASSOCIATES CHRISTOPHER J. TRAINOR (P42449) AMY J. DEROUIN (P70514) SHAWN C. CABOT (P64021) Attorneys for Plaintiff 9750 Highland Road White Lake, MI 48386 (248) 886-8650 (248) 698-3321-fax shawn.cabot@cjtrainor.com	
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THERE IS NO OTHER PENDING OR RESOLVED CIVIL ACTION ARISING OUT OF THE TRANSACTION
OR OCCURRENCE ALLEGED IN THE COMPLAINT

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff, **JOSEPH FLANIGAN**, by and through his attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and for his Complaint against the above-named Defendants states as follows:

1. Plaintiff is a resident of the City of Clarkston, County of Oakland, State of Michigan.

2. Defendant County of Oakland is a municipal corporation and governmental subdivision organized and existing under the laws of the State of Michigan.
3. Defendant S. Panin is and/or was a law enforcement officer employed by the Oakland County Sheriff's Department and was acting under color of law, in his individual and official capacities, and within the course and scope of his employment at all times mentioned herein.
4. All relevant events giving rise to this lawsuit occurred in the City of the Village of Clarkston, County of Oakland, State of Michigan.
5. That this lawsuit arises out of Defendants' violations of Plaintiff's federal constitutional rights as secured by the Fourth and Fourteenth Amendments to the United States Constitution and consequently, Plaintiff has a viable claim for damages under 42 U.S.C. § 1983.
6. Jurisdiction is vested in this Court pursuant to 28 U.S.C. § 1331 [federal question], 28 U.S.C. § 1343 [civil rights].
7. That the amount in controversy exceeds Seventy-Five Thousand Dollars (\$75,000.00) not including interest, costs, and attorney fees.

FACTS

8. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.

9. On July 21, 2013, Plaintiff was taking a walk around the City of the Village of Clarkston, minding his own business and waiting for his mother to pick him up.
10. While waiting for his mother, Defendant Panin began to approach the scene; however, Defendant Panin did not speak to Plaintiff nor did he issue any commands to Plaintiff.
11. Plaintiff proceeded to go away from the Defendant Panin.
12. Defendant Panin proceeded to go after Plaintiff and tased Plaintiff multiple times without warning and without any lawful justification whatsoever.
13. Without warning, Defendant Panin also proceeded to pepper spray after Plaintiff was handcuffed.
14. Once Plaintiff was handcuffed and on the ground, Defendant Panin proceeded to punch Plaintiff in the head, thereby causing significant injuries and damages.
15. Plaintiff was also so violently and forcefully kneed in the back, that he vomited.
16. Plaintiff was subsequently arrested and taken to the Oakland County Jail (“OCJ”).
17. As a result of Defendants’ unlawful actions and/or inactions, Plaintiff suffered injuries and damages.

COUNT I
VIOLATION OF THE FOURTH AMENDMENT
42 U.S.C. § 1983 EXCESSIVE FORCE

18. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.
19. At all relevant times herein, Defendant Panin acted under color of law, within the scope and course of his employment, and in his official and individual capacities.
20. Defendant Panin violated Plaintiff's clearly established and federally protected rights as set forth under the United States Constitution and the Amendments thereto, including, but not limited to, the Fourth Amendment of the United States Constitution to be free from unreasonable searches and seizures mainly to be free from excessive use of force, when he employed unnecessary and unreasonable excessive force which resulted in significant injuries to Plaintiff.
21. The actions of Defendant Panin were at all times objectively unreasonable and in violation of Plaintiff's clearly established rights under the Fourth Amendment to the United States Constitution which proximately resulted in significant injuries to Plaintiff.

22. Defendant Panin is not entitled to qualified immunity because he violated Plaintiff's clearly established Fourth Amendment right to be free from excessive use of force.

23. As a proximate result of the violations and/or deprivations of Plaintiff's constitutional rights by Defendant Panin, Plaintiff has a viable claim for compensatory and punitive damages pursuant to 42 U.S.C. § 1983 together with costs, interests, and attorney fees as set forth in 42 U.S.C. § 1988.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an award in his favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of interest, costs, and attorney fees.

COUNT II
COUNTY OF OAKLAND'S CONSTITUTIONAL VIOLATIONS

24. Plaintiff realleges and incorporates by reference each and every paragraph of this Complaint as though fully set forth herein.

25. That the Fourth Amendment prohibition against unreasonable searches and seizures forbids police officers from imposing excessive physical force against citizens.

26. Defendant County of Oakland permitted customs, practices, and/or policies which resulted in the violations of Plaintiff's constitutional rights complained of herein.

27. These customs, practices, and/or policies included, but were not limited to, the following:
 - a. Failing to adequately train and/or supervise its police officers so as to prevent violations of citizens' constitutional rights;
 - b. Failing to adequately train and/or supervise police officers regarding the proper use of force;
 - c. Failing to adequately supervise, review, and/or discipline police officers whom Defendant County of Oakland knew or should have known were violating or were prone to violate citizens' constitutional rights, thereby permitting and/or encouraging its police officers to engage in illegal conduct; and
 - d. Failing to adequately train and/or supervise its police officers in the proper policies and procedures for effectuating an arrest without the use of excessive force.
28. Defendants' conduct was so reckless so as to demonstrate a substantial lack of concern for whether an injury resulted.
29. Defendants' acts and/or indifference and/or omissions were the direct and proximate cause of Plaintiff's injuries.
30. The facts as set forth in the preceding paragraphs constitute a violation of Plaintiff's Fourth Amendment rights and pursuant to 42 U.S.C. § 1983,

Plaintiff has a viable claim for compensatory damages, costs, and attorney fees as set forth in 42 U.S.C. § 1988.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter an award in his favor and against Defendants in an amount in excess of Seventy-Five Thousand Dollars (\$75,000.00) exclusive of costs, interest, and attorney fees.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

BY: /s/ Shawn C. Cabot
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Dated: July 13, 2015
AJD/ssm/scc

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DEMAND FOR TRIAL BY JURY

NOW COMES Plaintiff, **JOSEPH FLANIGAN**, by and through his attorneys, CHRISTOPHER TRAINOR & ASSOCIATES, and hereby makes a Demand for Trial by Jury in the above-captioned matter.

Respectfully Submitted,
CHRISTOPHER TRAINOR & ASSOCIATES

BY: /s/ Shawn C. Cabot
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